

REMARKS / DISCUSSION OF ISSUES

Claims 1-8 and 11-12 are pending in the application.

Claims are amended to delete the 'practical application' language that had been added in response to the prior Office action. Because the final Office action found that language to be non-functional, the elimination of this language has no material effect on the claims. The claims are not narrowed in scope and no new matter is added. Entry after final action is proper because the scope of the claims is not changed and no further searching is required.

The Office action rejects claims 1-8, 11, and 12 under 35 U.S.C. 101. The applicants respectfully traverse this rejection.

The Office action asserts that the claims lack practical application, and that transmitting a signal renders the claim non-statutory. The applicants respectfully disagree with this assertion. Based on this assertion, few, if any, methods or devices in the communications field would be patentable. The inventive principles of telephone, telegraph, radio, television, and so on, each include the transmission of a signal and/or a carrier wave, and this Office action would imply that the patenting of such principles is prohibited. The applicants respectfully note that the transmission of a signal in each of these technologies cannot be said to lack a practical application, and the courts have consistently held that a "claim directed to a practical application of electromagnetic energy is statutory regardless of its transitory nature. See *O'Reilly*, 56 U.S. at 114-19; *In re Breslow*, 616 F.2d 516, 519-21, 205 USPQ 221, 225-26 (CCPA 1980)."

The Office action asserts that the claimed method does not provide a tangible result. The applicants respectfully maintain that transmitting a signal is a tangible result. As defined in MPEP 2106 IV.C.2.(2)(b):

**"TANGIBLE RESULT"**

The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. ... see also *Corning*, 56 U.S. (15 How.) at 268, 14 L.Ed. 683 ("*It is for the discovery or invention of some practical method or means of producing a beneficial result or effect, that a patent is granted . . .*"). In other words, the opposite meaning of "tangible" is "abstract." (Emphasis added)

The applicants respectfully maintain that there is nothing "abstract" about producing and transmitting a signal, and that, as noted in the applicants' specification, the transmission of the signal of the claims clearly produces a beneficial result and effect:

"U.S. Pat. No. 5,664,051 discloses... that a great improvement in the quality of synthesized speech can be achieved by... synthesizing an artificial phase for the harmonics at the receiver... [R]andom jitter improves the quality of the synthesized speech, avoiding the buzzy, artificial quality that can result when phase is artificially synthesized... The invention provides an advantageous way of applying phase jitter by transmitting a phase jitter parameter from the encoder to the decoder to indicate the amount of phase jitter that should be applied in the decoder during synthesis. Sending a phase jitter parameter has, *inter alia*, the advantage that a relation between the amount of phase jitter applied in the decoder and the original signal is established. In this way, more natural sound of a reconstructed audio signal is obtained, which better corresponds to the original audio signal."

The applicants respectfully maintain that improving the quality of synthesized speech, including avoiding the buzzy, artificial quality generally associated with synthesized speech, and providing a reconstructed audio signal that better corresponds to the original audio signal is clearly a practical application of the technical arts that provides a beneficial result. Accordingly, the applicants respectfully maintain that the rejection of claims 1-8 and 11-12 under 35 U.S.C. 101 is unfounded and should be withdrawn.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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